

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

WHITNEY SMITH, )  
Plaintiff, )  
v. ) No. 4:21 CV 996 MTS  
UNITED STATES CONSTITUTION, )  
Defendant. )

## **MEMORANDUM AND ORDER**

This matter is before the Court upon the motion of self-represented plaintiff Whitney Smith for leave to proceed in this action without prepaying fees or costs. The Court has reviewed the motion and will grant it. Additionally, the Court will dismiss this action because it is frivolous and fails to state a claim upon which relief may be granted.

## **Legal Standard**

This Court is required to review a complaint filed *in forma pauperis* to determine whether summary dismissal is appropriate. *See* 28 U.S.C. § 1915(e). This Court must dismiss a complaint if, *inter alia*, it is frivolous or fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2)(B). An action is frivolous if it “lacks an arguable basis in either law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). The term “‘frivolous,’ when applied to a complaint, embraces not only the inarguable legal conclusion, but also the fanciful factual allegation.” *Id.* While federal courts should not dismiss an action commenced *in forma pauperis* if the facts alleged are merely unlikely, the court can properly dismiss such an action if the allegations in the complaint are found to be “clearly baseless.” *Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (citing *Neitzke*, 490 U.S. 319). Allegations are clearly baseless if they are “fanciful,” “fantastic,” or “delusional,” or if they “rise to the level of the irrational or the wholly incredible.” *Id.*

An action fails to state a claim upon which relief may be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The court must assume the veracity of well-pleaded facts, but need not accept as true “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Id.* at 678 (citing *Twombly*, 550 U.S. at 555).

This Court must liberally construe complaints filed by laypeople. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). However, even *pro se* complaints must allege facts which, if true, state a claim for relief as a matter of law. *Martin v. Aubuchon*, 623 F.2d 1282, 1286 (8th Cir. 1980). Federal courts are not required to assume facts that are not alleged. *Stone v. Harry*, 364 F.3d 912, 914-15 (8th Cir. 2004).

### **The Complaint**

Plaintiff brings this complaint, naming as the sole defendant the United States Constitution. Plaintiff identifies the United States Constitution as an individual and a corporation from Washington D.C. Plaintiff claims that the federal agencies involved include the St. Louis North Patrol, St. Louis Media, St. Louis Fire Department, St. Louis EMS, St. Louis City government workers, St. Louis Sheriff, and the St. Louis City Marshal.

She sets forth her allegations in their entirety as follows:

1. What happened to you?
  2. When did it happen?
  3. Where did it happen?
  4. What injuries did you suffer?
  5. What did each defendant personally do, or fail to do, to harm you?
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1. I was put at war by state government and federal workers.
  2. A while ago about 4 years my intelligence had been defined

3. PTSD, Major Depression, I've been deprived lost friends, loved ones my kids house, suffered from abuse mentally and physically, numerous hate crimes my rights have been neglected and I've been misused
4. In St. Louis and across U.S.
5. They have caused major hate crimes sold my name and character, my rights were neglected and I had no protection that they put my mind at war with famous people and had me living under a scope

For relief, she seeks \$4 billion and “I want them to shut their data larcher [*sic*] off me stop wearing my data tell all of the people stop using my data for entertainment broadcast ratings and person[al] purposes pay my debt help file restraining orders for my identity give my rights back and stop St. Louis City cops from causing any more public corruption[.] I also want my case dropped from being [illegible.]”

### **Discussion**

While plaintiff may have intended to bring this action pursuant to 42 U.S.C. § 1983, the Court is unable to discern her claims for relief. The Federal Rules of Civil Procedure require litigants to formulate their pleadings in an organized and comprehensible manner. Even *pro se* plaintiffs are required to set out their claims in a simple, concise, and direct manner, and to set forth the facts in support of such claims. *See McNeil v. United States*, 508 U.S. 106, 113 (1993). Here, plaintiff has not done so. While this Court must liberally construe *pro se* filings, this Court will not construct claims or assume facts that plaintiff has not alleged. *See Stone v. Harry*, 364 F.3d 912, 914-15 (8th Cir. 2004) (refusing to supply additional facts or to construct a legal theory for the *pro se* plaintiff that assumed facts that had not been pleaded). Additionally, it is apparent that plaintiff’s allegations are based in delusion and are “clearly baseless” as defined in *Denton*. *See Denton*, 504 U.S. at 33. For these reasons, the Court concludes this action is frivolous and

fails to state a claim upon which relief may be granted, and will therefore dismiss it without prejudice.

Accordingly,

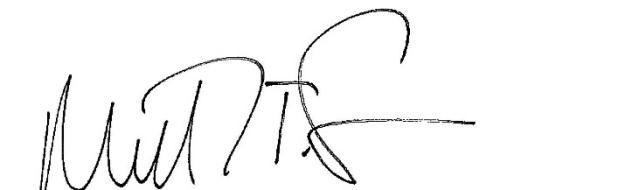
**IT IS HEREBY ORDERED** that plaintiff's motion seeking leave to commence this action without prepaying fees or costs Doc. [2] is **GRANTED**.

**IT IS FURTHER ORDERED** that this case is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that plaintiff's motion to appoint counsel Doc. [3] is **DENIED** as moot.

**IT IS HEREBY CERTIFIED** that an appeal from this dismissal would not be taken in good faith.

Dated this 13th day of December, 2021.



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MATTHEW T. SCHELP  
UNITED STATES DISTRICT JUDGE